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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,347	05/19/2006	Trygve Ruste	8198-5	1736
20792	7590	08/26/2008		
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EXAMINER				
ROCCA, JOSEPH M				
ART UNIT		PAPER NUMBER		
3616				
MAIL DATE		DELIVERY MODE		
08/26/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/580,347

**Applicant(s)**

RUSTE, TRYGVE

**Examiner**

Joseph Rocca

**Art Unit**

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☒ Claim(s) 1,5 and 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/CD/CC)  
Paper No(s)/Mail Date 5/19/06

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

1. The specification is objected to because of the following informalities: in page 2, in the last paragraph, specific claim numbers are mentioned. It is inappropriate to mention claims in the specification. Accordingly, appropriate correction is required.

### ***Claim Objections***

2. Claims 1, 5, and 6 are objected to because of the following informalities: The claims do not separate each of the plurality of elements or steps, by a line indentation. Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. 37 CFR 1.75(i); MPEP 608.01(m). Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-4 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With respect to claims 1-4, claim 1 claims in line 8, the removing of parts of the first channel to allow the remaining second channel to be bent in said areas.

The term "remaining second channel" lacks clear antecedent basis in the claim, since no part of the claim discusses removing any part of the second channel; it is not clear what part of the second channel may reasonably be determined to be the claimed

"remaining second channel." This is because all of the prior steps of the claim do not discuss doing anything to the second channel; accordingly, the entire second channel should be present. Not just a remaining part (i.e. there is no left over part). Appropriate correction is required to clarify this.

With respect to claim 5, this claim is completely unclear as there are an indeterminate number of words which appear to have been typed on top of one another. The Examiner has no idea what is being claimed in this claim due to the words that are typed on top of one another in claim 3 of the claim. Accordingly, this claim is both indefinite and unclear. Appropriate correction is required. Claim 5 has been interpreted to the extent best understood in view of the prior art. Regarding claim 5 as currently rejected under 35 USC §112, second paragraph, please note that rejections under 35 USC §102 and 103 should not be based upon considerable speculation as to the meaning of the terms employed and assumptions as to the scope of the claims when the claims are not definite. See, In re Steele, 305 F.2d 859, 862, 134 USPQ 292, 295 (CCPA 1962). When no reasonably definite meaning can be ascribed to certain terms in a claim, the subject matter does not become anticipated or obvious, but rather the claim becomes indefinite. See, In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). As currently pending claim 5 may be subject to prior art rejections not set forth herein upon the clarification of the claim language. See also, MPEP 2143.02.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claim 6 is rejected under 35 U.S.C. 102(b) as being anticipated by Vlahovic (U.S. 5,397,115). Vlahovic discloses an aluminum profile, comprising a first channel (19) and a second channel (1) with an intervening channel (18), characterized in that said second channel (1) forms a load bearing frame, the first channel (Figs. 1-4) being formed into mounting brackets for wheel suspension members (Figs. 3-4) and other external components (Fig. 1, Element 2).

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grunklee (WO 03/072421 A1). Grunklee discloses a profile including a first channel (Element 10) and a second channel (Element 11) with an intervening channel (Figs. 4B and 6, space between step welds), characterized in that said intervening channel (Fig. 6, note weld portions protrude outside the first and second channel in ridges) is

protruding outside the adjacent first and second channels in ridges. Grunklee does not specifically disclose that the profile is aluminum. Nevertheless, It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Grunklee to use aluminum, since since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

9. Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grunklee (WO 03/072421 A1) in view of Vlahovic (U.S. 5,397,115). Grunklee does not specifically disclose that one of the channels is formed into mounting brackets for wheel suspension members and other external components. Nevertheless, doing this is old and well known in the art of vehicle design. Vlahovic discloses using a channel for mounting a vehicle suspension (see, Figs. 1-4) and other vehicle components. Accordingly, It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Grunklee to utilize a channel (10), which is formed into mounting brackets for wheel suspension members and other external components, in view of Vlahovic, since doing so is a predictable variation that one of ordinary skill in the art would recognize as no more than the predictable use and combination of prior art elements according to their established functions to achieve predictable results, because all of the elements are old and well known and are being used in the combination according to their established functions and in a predictable manner.

With respect to claim 7, the combination of Grunklee as modified in view of Vlahovic further discloses that the profile forms a square frame structure, which is closed by welding opposing ends of the profile together.

Regarding claim 8, the combination of Grunklee as modified in view of Vlahovic further discloses that the profile forms a u-shaped structure (see Fig. 7 of Grunklee, which is a variation using a U-shaped frame). Moreover, the use of U-shaped components in frames is old and well known.

With respect to claim 9, the combination of Grunklee as modified in view of Vlahovic further discloses that said u-shaped structure is closed with a cross-member spanning the ends of the profile (see Fig. 7 of Grunklee, which is a variation using a U-shaped frame).

### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Rocca whose telephone number is 571-272-5191. The examiner can normally be reached on 8:30 AM to 5:00 PM, Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on 571-272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph Rocca/  
Examiner, Art Unit 3616

/Paul N. Dickson/  
Acting SPE of Art Unit 3616